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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,549

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Max Arthur Lembke

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10/16/2006

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EXAMINER

MICHALSKI, SEAN M

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,549

Applicant(s)

LEMBKE ET AL.

Examiner

Sean M. Michalski

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-30 is/are pending in the application.
- 4a) Of the above claim(s) 18-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 13 is objected to because of the following informalities: in line 3 "clot" should be "slot". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 recites the limitation "said portion of said razor" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 also recites "...blade is slidably received in said slot" in line 9 and 10, and in line 11, "surfaces is adapted to carry a portion of a razor blade". Between the two limitations it is unclear whether the razor blade is being positively recited. Without knowing whether the razor blade is being claimed, or whether it is just a term of functional recitation it is unclear what weight the razor blade is to be given.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gooding in view of Barone et al.

Regarding claim 1, Gooding teaches a razor blade platform (figure 2, 10 and 10d) comprising a base portion (10 figure 2) at least two projections (10d and 10e figure 1) extending from the base portion (as seen in figures 1 and 2) defining at least a pair of approximately parallel spaced apart support surfaces (11 figure 2 or 11c figure 1), wherein the support surfaces (11 figure 2) are generally laterally aligned (as seen in figure 1) with the corresponding support surfaces of another of said projections (seen in figure 1) and each of said support surfaces is adapted to carry a portion of a razor blade extending along said razor blade platform (the blade platform is seen to be carrying a portion of razor blades extending along the blade platform in figure 1, it is therefore considered 'adapted' to do so). Gooding also teaches that an alternative embodiment to having a solely welded connection for the blades is to provide a slot feature (see 11c1 figure 3) to retain the blades. Gooding commented that "the webs...may be formed with tongues...which overlies the blade...to provide a positive location of the cutting edge". In this embodiment the strips seen as in figure 1 and 2 would be provided with slots as seen in figure 3.

Gooding lacks only the teaching to form a slot *in the projection*. The slot is formed in a metal strip.

Barone teaches having a slot formed in the projection. The razor blades in Barone are slidably received in the slots since there are no throughholes in the blades which retain them against sliding. The slots are seen to be capable of slidably receiving

a razor blade (see figure 4, a razor blade would be slidably received in the slots as seen).

In the same field of invention it would have been obvious to one skilled in the art at the time the invention was made to replace the metal strip slots of Gooding with the slots formed in the projections of Barone, since it is recognized by Gooding that a slot would provide for "positive location of the cutting edge" and in addition it is clear from both the Barone reference and the Gooding reference that a blade supported on multiple sides would have a greater level of stability. There would have been a reasonable expectation of success for the combination, since Barone merely discloses an alternate slot feature formed by molding in lieu of a strip of metal. The substitution of art recognized equivalent structures is considered routine, and one of ordinary skill in the art would have been able to substitute one component for the other.

One of ordinary skill in the art could accomplish the combination in several ways including by replacing the metal strip and plastic combination of Gooding with plastic that was injection molded, as described by Barone. In this way the structure would be identical to that of Gooding, only the material and method of formation would be changed. This would also meet the claim limitations.

Regarding claims 4, 6, 8-10, 16 and 17, no other changes are needed in order to meet the limitations of these claims, and since Examiner has already described, in detail, in the action of 4/12/2006 how Gooding meets all the remaining limitations, they will not be re-addressed. Please see the action dated 4/12/2006.

Regarding claim 10, in the above combination the structure may have been made by injection molding since that method is taught by Barone. One of ordinary skill in the art would be motivated to produce by injection molding the component of Gooding as described above.

Regarding claims 3, 5, 7, and 11-13 the office action of 4/12/2006 has already clearly described how the above combination meets the limitations of the claims.

Applicant has not traversed the Official notice previously presented that the number and position of slotted and unslotted supports is arbitrary, and by *declining to traverse*, that Official notice is now considered to be admitted on the record by applicant, and may be considered evidence in the continued prosecution of this application. See MPEP 2144.03 (C).

6. Claims 1, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gooding in view of Barone et al. as applied to claims 1, 3-13, 16 and 17 above, and further in view of Coffin.

As in the previous office action dated 4/12/2006, Gooding in view of Barone only fails to teach that there be four support surfaces and that the slotted projections define three slots.

Coffin teaches a four bladed razor.

In the same field of invention it would have been obvious to one skilled in the art at the time of the invention to modify Gooding in view of Barone et al. by making it

accommodate four blades as taught by Coffin to make the razor more efficient. The motivation to combine is that increasing the number of blades will "increase the shaving efficiency of the razor".

The addition of a support surface and slot such as those already found in Gooding in view of Barone would have been obvious, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper co. v. Bemis Co.*, 193 USPQ 8. There is no criticality in the specification regarding the choice of four blades.

Response to Arguments

7. Applicant's arguments filed 8/21/2006 have been fully considered but they are not persuasive.

8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, examiner has shown there to be a motivation to combine the references, and in view of the references themselves there is a reasonable expectation of success. To argue that there would have been no success due to the width of the blade is spurious since blade length may

be modified as a matter of routine design efficiency. A blade width modification would be made by one of ordinary skill in the art. Gooding states "whilst there are advantages in using blades of relatively narrow width advantageous constructions can also be obtained using blades of more conventional width" (column 2 line 68 to column 3 line 2).

9. In response to applicant's argument that the "stair step" arrangement is provided to accommodate narrow blades, Examiner disagrees. Simply because the stair step is provided, and so is a narrow blade, it does not logically follow that one was provided "for a specific reason". This argument is without any basis in fact. Applicant has presented no evidence that this is a valid interpretation. Gooding discloses that an alternate embodiment is to use "blades of more conventional width" (column 3 line 2), clearly refuting applicants allegation.

10. In response to the argument that the method of manufacture of the '157 reference teaches away from combination, Examiner disagrees. One of ordinary skill in the art would recognize the desirability of three sided support as present in the final structure of '157 and have motivation to combine the 'slot' feature with Gooding. The motivation was clearly put forth, that the three sided support would be more secure. Gooding also teaches a slot, seen in figure 3, the combination with Barone merely replaces one slot configuration for another, and as such there would be a reasonable expectation for slots to function as desired. Barone teaches a structure that is an alternative and functional equivalent of the structure of Gooding.

11. In response to applicant's argument that Gooding teaches away from modification due to the alleged interrelatedness of the narrow blade and the stair shape, Examiner disagrees, since Gooding *does not require a narrow blade*, this argument is clearly erroneous. To allege that the blade width may not be altered is disputed within the text of Gooding, which states that an alternate embodiment is to use "blades of more conventional width" (column 3 line 2). Applicant alleges that the use of wider blades and slots is in "direct contrast to the teachings of art cited", which is incorrect since Gooding shows a slot (figure 3) and states that wider blades may also be used, and do not depart from the scope of the invention.

12. The argument that the lack of motivation to combine Gooding with Barone makes claims 14 and 15 also allowable is clearly moot in view of the fact that there is motivation to combine, as presented above and in the previous action dated 4/12/2006. Applicant has not argued that a combination with Coffin is improper in any other way.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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